

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

DANIEL D. JONES,)	
Appellant,)	
)	
v.)	ID#: 0712022285 FSS
)	
STATE OF DELAWARE ,)	
Appellee.)	

Submitted: April 16, 2009
Decided: September 18, 2009

ORDER

1. This is Defendant’s appeal from a six-month prison sentence for shoplifting, imposed by the Court of Common Pleas. Defendant argues that the sentence far exceeds both the “lenient” plea agreement and the sentencing guidelines. The recommendation and guidelines called for probation, not prison.

2. The case’s procedural history defies presentation. Suffice it to say, Defendant was originally sentenced on May 23, 2008, after a pre-sentence investigation. On Defendant’s first appeal, this court vacated the sentence for technical reasons and remanded. On April 6, 2009, the Court of Common Pleas reimposed the six-month prison sentence and Defendant filed this, his second appeal.

3. As mentioned, Defendant protests that the sentence is far too harsh, and he is correct that the sentence greatly exceeds the State’s recommendation

and, perhaps, the sentencing guidelines. While the guidelines take into account “repetitive criminal conduct,” they do not, however, provide specific guidance where the court is sentencing someone who has re-offended after having been sentenced under the habitual offender statute.

4. In any event, the sentencing court was not bound by the recommendation or the guidelines, and the sentence is less than half the statutory maximum.

5. Defendant’s robust criminal history is violent and repetitive. In 2002, Defendant was declared a habitual offender.¹ The predicate felonies included Robbery first degree, which is a violent theft. Since then, Defendant has committed several more property crimes. The sentencing court, therefore, had reason to believe that Defendant is not amenable to community-based sanctions (probation) and he is not deterred by prison.

6. Taking the above into account, it does not appear that the sentencing court abused its broad discretion when it sentenced this habitual offender to six months in prison for shoplifting. Furthermore, while Defendant claims that the State’s plea offer, in effect, mousetrapped him, he has not supported that conclusion except to point-out that the State is now defending the sentence.

¹ 11 *Del. C.* § 4214(a).

